

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

V.

MICHAEL D. HARVEY

)
)
)
)
)

CASE NO.: 1:06cr107-MHT

MOTION TO FILE PLEADING OUT OF TIME

COMES NOW the Defendant, Michael D. Harvey, by and through undersigned counsel, Kevin L. Butler, and moves to allow submission of Mr. Harvey's Motion to Suppress Statement(s) one day out of time. In support of this motion the defendant states:

1. In the defendant's Motion to Suppress Statement(s), the defense is challenging whether Mr. Harvey's *Miranda* waiver was (i) voluntary and (ii) knowing and intelligent.
2. Eleventh Circuit precedent indicates for the defense to prevail, a substantial evidentiary burden must be overcome.
3. Over the last month the defense has attempted to obtain from remote locations and through expert services evidence sufficient to overcome that burden. The defense will be ready to present that evidence at any subsequent hearing.
4. However, undersigned counsel needed additional time (one day) to confer with evidentiary sources, prior to filing the Motion to Suppress Statement(s).

For these reasons, there is good cause and it is in the interest of justice to grant the Defendant's request to file the Motion to Suppress Statement(s) one day out of time.

Respectfully submitted,

s/ Kevin L. Butler
KEVIN L. BUTLER
First Assistant Federal Defender
201 Monroe Street, Suite 407
Montgomery, Alabama 36104
Phone: (334) 834-2099
Fax: (334) 834-0353
E-mail: kevin_butler@fd.org
AZ Bar Code: 014138

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
V.)	CASE NO.: 1:06cr107-MHT
)	
MICHAEL D. HARVEY)	

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Verne Speirs, Esquire
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler
KEVIN L. BUTLER
First Assistant Federal Defender
201 Monroe Street, Suite 407
Montgomery, Alabama 36104
Phone: (334) 834-2099
Fax: (334) 834-0353
E-mail: kevin_butler@fd.org
AZ Bar Code: 014138